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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,378	02/25/2002	David A. Niday	DBZ-221P2	4571

26875 7590 03/24/2004  
WOOD, HERRON & EVANS, LLP  
2700 CAREW TOWER  
441 VINE STREET  
CINCINNATI, OH 45202

EXAMINER

GREEN, CHRISTY MARIE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/082,378

Applicant(s)

NIDAY ET AL.

Examiner

Christy M Green

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10-16,18-25 and 27-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-8,10-18,20-25,27-32 and 34 is/are rejected.
- 7) ☒ Claim(s) 4,13,19 and 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This is a second office action for serial number 10/082378, entitled Metal Panel Roofing Method and Assembly, filed on October 22, 2002.

#### *Response to Amendment*

In response to the examiner's office action dated August 25, 2003, the applicant has cancelled claims 2, 9, 17 and 26 and amended claims 1, 3, 13, 16 and 18.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5-8, 10-12, 14-16, 18, 20-32 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Workman, US patent # 6,085,478.

Workman discloses the claimed invention protective cover (figure 1) comprising a collar structure (100) defining an open end (104) for receiving the end of a rebar (56), a cap portion (52) **having a support portion (96) extending outwardly from the collar structure (100), a barrier plate (32) supported by the support portion (96) and defining an exposed upper surface (at 62, 38) of the cover, wherein a portion of the support portion (96) extends over the barrier plate (at 110) and the exposed upper surface (at 62, 38);** the barrier plate includes apertures (142) and the material of the

Art Unit: 3635

cap portion (196 – figure 6) extends through the apertures (142); the barrier plate comprises an impact resistant material capable of resisting penetration by the end of the rebar located in the collar structure (column 2, lines 54-63); the barrier plate comprises a metal and steel plate (inherent if Workman teaches a steel plate in the base plate, and steel is a form of a metal - column 2, lines 30-31) and Kevlar (interpreted to be plastic - column 5, lines 61-62); the barrier plate comprises a curved plate (148); the barrier plate comprises a quadrilateral shape (figure 3); the barrier plate is formed with a double curvature (figure 17 at “386” and 394”); the collar structure comprises a pair of concentric collar members (at 108 and 102); an inner collar member (102) and an outer collar member (108) spaced from the inner collar member by a plurality of ribs (106); and, a reinforcing plate (46, 148) disposed adjacent a lower surface of the barrier plate (32).

#### ***Allowable Subject Matter***

Claims 4, 13, 19 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection. Also, any newly added limitations were added above in bold face type to assure that they were considered and interpreted by the examiner for clarity.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cg

March 12, 2004

  
**BRIAN E. GLESSNER**  
**PRIMARY EXAMINER**